

# Attachment A

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6 IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
7  
8 IN AND FOR KING COUNTY

9 JACOB ANDERSON, an individual,  
10 Plaintiff,  
11 v.  
12 HYDROMAX USA, LLC, an Indiana  
13 Corporation, and Does 1-10, inclusive,  
14 Defendants.

Case No.:

**PLAINTIFF'S COMPLAINT FOR  
DAMAGES**

**JURY TRIAL DEMANDED**

15 **I. NATURE OF THE ACTION**

16 1.1 Plaintiff JACOB ANDERSON ("Plaintiff") brings this action against  
17 HYDROMAX USA, LLC ("Defendant" or "Hydromax") to redress the deprivation of rights  
18 secured through the Washington Law Against Discrimination, RCW 49.60 *et seq.* ("WLAD")  
19 and the common law tort of Wrongful Termination in Violation of Public Policy. Plaintiff  
20 alleges Defendant engaged in unlawful employment practices against him; specifically,  
21 discrimination on the basis of disability; failure to accommodate, and termination in violation  
22 of public policy.  
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24 **II. PARTIES, JURISDICTION AND VENUE**

25 2.1 Plaintiff realleges and incorporates by reference each and every allegation set  
26 forth in the preceding paragraph.

1           2.2   Plaintiff is a resident of the State of Washington. He is of age and is otherwise  
2 qualified to bring this action.

3           2.3   Hydromax is in the business of pipeline inspection and other services  
4 supporting the utility industry. They are an Indiana corporation doing business in Washington  
5 State, including in King County.

6           2.4   Defendants Does 1-10 are each subsidiaries, parent companies, holding  
7 companies, alter egos, owners, representatives, or successors of Hydromax. The true names  
8 and capacities, whether individual, corporate, associate or otherwise, of defendants sued in the  
9 Complaint under the fictitious names of Defendants Does 1-10, inclusive, are unknown to  
10 Plaintiff who therefore sues defendants by such fictitious names. Plaintiff will amend this  
11 complaint to allege their true names and capacities when ascertained. Each of the Doe  
12 Defendants were the employer of Plaintiff, including under RCW 49.60 et seq., and/or are  
13 responsible in some manner for the occurrences herein alleged.  
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15           2.5   Under the doctrine of *respondeat superior*, Hydromax is liable for the conduct  
16 of its employees, which in all respects material hereto was within the course and scope of their  
17 employment.  
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19           2.6   This Court has jurisdiction under RCW 2.08.010 because Plaintiff requests  
20 legal relief exceeding \$300.00.

21           2.7   Venue is proper in King County, Washington under RCW 4.12.025(1)(a),  
22 RCW 4.12.025(1)(a), RCW 4.12.025(3)(b), and/or RCW 4.12.025(3)(d). Defendant transacts  
23 business in King County. Defendant transacted business in King County at the time Plaintiff's  
24 causes of action arose. Plaintiff's allegations set forth below occurred while he performed  
25 work for Defendant in King County.  
26

### III. STATEMENT OF FACTS

3.1 Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

3.2 The following facts are not exhaustive and merely provide support for Plaintiff's claims.

3.3 Defendant engaged in unlawful employment practices against Plaintiff while he was employed by Hydromax, in violation of RCW 49.60 *et seq.*

3.4 Defendant is in the business of pipeline inspection and utility data collection and analysis.

3.5 Plaintiff began working at Defendant around March 20, 2017. The job he was hired to do was "GIS Specialist". This was a fulltime position with a starting wage of \$18.50 per hour. Mr. Anderson's position was non-exempt.

3.6 On approximately June 15, 2018, Plaintiff was injured on the job. He sought medical care for the workplace injury.

3.7 The physical injuries affected Plaintiff's ability to work and perform other major life activities.

3.8 Immediately following the injury, instead of taking Plaintiff to seek medical treatment for his injury, Hydromax ordered a blood alcohol and 5-Panel DOT Lab Based Drug Test for Mr. Anderson. The results were negative. Plaintiff had suffered a head injury and was not fully aware of what Hydromax was doing to him. He did not consent to the drug test. Only after the drug test did Hydromax take Plaintiff to the emergency room for treatment of his plainly apparent workplace injury.

3.9 Because of his injury, Plaintiff required accommodations to perform his work.

1 With reasonable accommodation, he would have been able to perform his job at Hydromax.  
 2 Plaintiff informed Hydromax of his needs for accommodation. Hydromax became aware that  
 3 Plaintiff's ability to work was affected by his injuries and that he needed an accommodation.

4 3.10 Plaintiff filed an industrial insurance (workers' compensation) claim with the  
 5 Department of Labor and Industries ("LNI") relating to his injuries. His claims were approved.

6 3.11 Hydromax did not provide Mr. Anderson with reasonable accommodations, and  
 7 it did not attempt to engage in the interactive process with him. For example, Plaintiff requested  
 8 and Hydromax him from taking denied time off for three weeks following the injury. They told  
 9 him he needed to keep working, even though he was seriously injured and needed medical care.

11 3.12 Plaintiff's supervisor and colleagues treated him differently because of his injury.

12 3.13 Hydromax took retaliatory actions against Plaintiff for suffering an injury, "  
 13 requesting a reasonable accommodation, and for filing a workers' compensation claim. For  
 14 example, on July 12, 2018, Keanu Barnes of Hydromax ordered a 5-Panel DOT Lab Based Drug  
 15 Test for Jacob Anderson. According to Hydromax's records, this was part of "Random Testing."  
 16 It was merely a means to harass Plaintiff.

18 3.14 On July 24, 2018, Hydromax terminated Mr. Anderson.

19 3.15 The sole stated reason for their decision to termination him was "work  
 20 performance." Hydromax deemed this an "involuntary" termination." Hydromax decided that  
 21 Mr. Anderson is ineligible for rehire. The termination was approved by Keanu Barnes. John  
 22 Mickelson created a "Personnel Action Form" to terminate Mr. Anderson. He commented:

24 **Continuously refusing to receive coaching and follow safety precautions. Unmanageable personality. A serious safety**  
 25 **liability to Company and self. Frequently late. Irresponsible, cannot be left unsupervised in any role.**

26 3.16 Mr. Mickelson told Plaintiff the reason for termination was that he "was too

1 much of a nuisance and they were tired of babying [him]." When Hydromax terminated Plaintiff,  
2 they told him he was "done."

3 3.17 Hydromax's stated reason for terminating Plaintiff was pure pretext.

4 3.18 Rather, Plaintiff's termination was in retaliation for his exercising his right to  
5 seek LNI benefits for a workplace injury, seeking light duty, and seeking an accommodation for  
6 a disability.

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8 **IV. FIRST & SECOND CAUSES OF ACTION**  
(Violations of Chapter 49.60 RCW *et seq.*)

9 4.1 Plaintiff realleges and incorporates by reference each and every allegation set  
10 forth in the preceding paragraphs.

11 4.2 RCW 49.60.030(1) – a provision of the Washington Law Against Discrimination  
12 ("WLAD"), RCW 49.60 *et seq.* – states:  
13

14 "The right to be free from discrimination because of ... the presence of any  
15 sensory, mental, or physical disability... is recognized as and declared to be  
16 a civil right. This right shall include, but not be limited to: ... a) The right to  
obtain and hold employment without discrimination[.]"

17 4.3 RCW 49.60.180(2) states: "It is an unfair practice for any employer: To discharge  
18 or bar any person from employment because of . . . the presence of any sensory, mental, or  
19 physical disability."

20 4.4 RCW 49.60.040(7)(a) and WAC 162-22-020 define "Disability" as "the presence  
21 of any sensory, mental, or physical disability . . ." that (a) Is medically cognizable or  
22 diagnosable; (b) Exists as a record or history; or (c) Is perceived to exist whether or not it exists  
23 in fact.

24 4.5 WAC 162-22-025 states "[i]t is unfair practice for any employer . . . to: Refuse  
25 to hire, discharge, bar from employment, or otherwise discriminate against an able worker with  
26

1 a disability . . . ; or fail or refuse to make reasonable accommodation for an able worker with a  
2 disability . . . .”

3 4.6 WLAD requires an employer to provide for a reasonable accommodation to a  
4 disabled employee if it does not create an undue hardship.

5 4.7 WLAD prohibits an employer from retaliating against a person who engages in  
6 the protected activity of requesting a reasonable accommodation.

7 4.8 Hydromax discriminated against Plaintiff because of his actual disability, record  
8 of disability, or perceived disability.

9 4.9 Hydromax also created a retaliatory hostile work environment against Plaintiff  
10 because of his actual disability, record of disability, perceived disability, and/or request(s) for  
11 reasonable accommodation.

12 4.10 Hydromax failed to provide Plaintiff with a reasonable accommodation for his  
13 disability.

14 4.11 Hydromax retaliated against Plaintiff because he requested reasonable  
15 accommodations.

16 4.12 By the actions alleged above, Defendant violated the provisions of RCW 49.60  
17 *et seq.* and WAC 162-22-010 *et seq.*

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20 **V. THIRD CAUSE OF ACTION**  
21 **(Wrongful Termination in Violation of Public Policy)**

22 5.1 Plaintiff realleges and incorporates by reference each and every allegation set  
23 forth in the preceding paragraphs.

24 5.2 RCW 49.60.010 states:

25 The legislature hereby finds and declares that practices of discrimination  
26 against *any of its inhabitants* because of . . . the presence of any sensory,

1           mental, or physical disability . . . [is] a matter of state concern, that such  
2           discrimination threatens not only the rights and proper privileges of its  
3           inhabitants but menaces the institutions and foundation of a free democratic  
4           state.

5           5.3    RCW 49.60.030(1) states:

6           “The right to be free from discrimination because of . . . the presence of any  
7           sensory, mental, or physical disability . . . is recognized as and declared to  
8           be a civil right. This right shall include, but not be limited to: . . . a) The  
9           right to obtain and hold employment without discrimination[.]”

10          5.4    The right not to be discriminated against based on disability is recognized by the  
11          Washington legislature.

12          5.5    The right to not be terminated for filing a workers' compensation claim is  
13          acknowledged by Washington Courts as exercising a legal right or privilege, and is a clear public  
14          policy.

15          5.6    RCW 51.48.025 states:

16          No employer may discharge or in any manner discriminate against any  
17          employee because such employee has filed or communicated to the  
18          employer an intent to file a claim for compensation or exercises any rights  
19          provided under this [Workers' Compensation] title.

20          5.7    In addition, it is against Washington State public policy for an employer to act to  
21          suppress employee claims for worker's compensation or to retaliate against employees who  
22          refuse to submit to employer attempts to suppress such claims. RCW 51.28.010 states:

23          Employers shall not engage in claim suppression. For the purposes of this  
24          section, “claim suppression” means intentionally: (a) Inducing employees  
25          to fail to report injuries; (b) Inducing employees to treat injuries in the  
26          course of employment as off-the-job injuries; or (c) Acting otherwise to  
27          suppress legitimate industrial insurance claims.

28          5.8    Terminating and/or discriminating against an employee for filing or  
29          communicating to the employer an intent to file a workers' compensation claim jeopardizes a  
30          clear public policy.



1           5.9 Plaintiff was discharged because of his actual injury disability, record of  
2 disability, or perceived disability record, and/or requests for reasonable accommodation and for  
3 exercising his legal right to file a worker's compensation claim, both in violation of public  
4 policy.

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6                                   **VI. PRAYER FOR RELIEF**

7           Wherefore, Plaintiff respectfully requests that this court:

8           A.     Declare that the actions complained of herein violate the RCW Chapters 49.60,  
9 51.28, and 51.48; violate WAC 162-22-010 *et seq.*; constitute wrongful discharge in violation  
10 of public policy; and violate any other applicable laws;

11           B.     Award Plaintiff all wages, compensation, exemplary damages, liquidated  
12 damages, general damages, actual, consequential, incidental, and / or statutory damages as  
13 provided for by law and in equity to the fullest extent permitted by each of the above causes of  
14 action;

15           C.     Award all available damages arising from Defendants' unlawful retaliation  
16 and/or wrongful discharge in violation of public policy as set forth above, including general  
17 damages;

18           D.     Award attorneys' fees and costs to Plaintiff's attorneys, as allowed by law;

19           E.     Award pre-judgment and post-judgment interest to Plaintiff, as provided by law;

20           F.     Order Defendants to pay Plaintiff for any and all tax consequences associated  
21 with the damages and cost award, including but not limited to attorney's fees; and,  
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23           G.     Grant such other and further relief as this Court deems appropriate, equitable, or  
24 just.  
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2 DATED this 11<sup>th</sup> day of June, 2021.

3 RAEANNE MILLER LAW FIRM

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